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June 1, 2022

Via ECF:

The Honorable Paul G. Gardephe
United States District Court
Southern District of New York
Thurgood Marshal United States Courthouse
40 Foley Square, Room 705
New York, New York 10007

Re: *U.S. Bank National Association v. 767 8th Ave LLC, et al.*
Case No. 21 Civ. 4913 (PGG)

Dear Judge Gardephe:

Counsel for plaintiff U.S. Bank National Association, solely in its capacity as Trustee for the benefit of the holders of Morgan Stanley Capital I Inc., Commercial Mortgage Pass-Through Certificates, Series 2012-C5 (“Plaintiff”), acting by and through special servicer Rialto Capital Advisors, and defendants 767 8th Ave LLC, Sherman Management LLC, Joginder Y. Sharma (collectively, “Borrower Defendants” and, together with Plaintiff, the “Parties”) submit this joint letter to apprise the Court of the status of the Parties’ settlement discussions and request an adjournment of the pretrial conference currently scheduled for tomorrow, June 2, 2022 at 11:30 AM. See ECF Nos. 61, 74.

By letter dated April 28, 2022 (see ECF No. 73), Borrower Defendants advised the Court that they are in the process of obtaining a financing to pay off the subject loan. Since that time, the Parties’ settlement discussions have continued to progress towards consummation of the contemplated refinancing. To that end, on May 25, 2022 and May 26, 2022, respectively, Plaintiff’s counsel provided drafts of certain assignment documents requested by counsel for the oncoming, new lender. Further, on Friday, May 27, 2022, Plaintiff’s counsel provided Borrower Defendants’ counsel with an updated payoff demand statement that itemizes the components of the amount due and owing on the subject loan. In response to certain of Borrower Defendants’ inquiries regarding specific components of the computed payoff amount, Plaintiff is in currently in the process of obtaining backup documentation to substantiate those components and resolve Borrower Defendants’ inquiries.

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In the event that all of the foregoing inquiries and all other matters ancillary to the refinancing are resolved, Borrower Defendants' counsel anticipates that the refinancing will close within the next two weeks.

In light of the foregoing and the Parties' guarded optimism that the refinancing will close, the Parties respectfully submit that proceeding with tomorrow's pretrial conference may result in waste of party and judicial resources and that the Parties would be better served funneling their efforts into the contemplated refinancing. For the foregoing reasons, the Parties respectfully submit that this Court adjourn tomorrow's pretrial conference to June 30, 2022 or such other date as is most convenient for the Court.

Respectfully submitted,

HOLLAND & KNIGHT LLP

Attorneys for Plaintiff

ROSENBERG & ESTIS, P.C.

Attorneys for Defendants

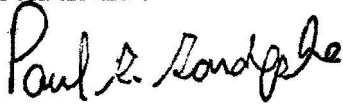
By: /s/ David V. Mignardi
Keith M. Brandofino, Esq.
David V. Mignardi, Esq.

By: /s/ Stacey A. Lara
Stacey A. Lara, Esq.
Jake W. Bedor, Esq.

Memo Endorsed: The conference in this matter scheduled for Thursday, June 2, 2022 is adjourned sine die. By June 30, 2022, the parties shall submit a joint letter apprising the Court of the status of settlement.

Dated: June 1, 2022

SO ORDERED.



Paul G. Gardephe
United States District Judge